UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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ART UNIT	PAPER NUMBER
3623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/686,385	MORRISON ET AL.
	Examiner	Art Unit	
	R. David Rines	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>15 July 2009</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-23</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-23</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Notice to Applicant

[1]   This communication is in response to the amendment filed 15 July 2009. Claim 4 has

been amended. Claims 21-23 have been added. Claims 1-23 are pending.

Response to Remarks

[2]   Applicant's remarks filed 15 July 2009 have been fully considered but they are not

persuasive. The remarks will be addressed below in the order in which they appear in the noted

response.

Applicant remarks that Wallace does not describe or render obvious the process defined by

claims 1, 7, and 14 of present application.

Specifically, Applicant remarks:

"...As seen [referring to Wallace] only a single pharmacy controller is provided and not a plurality of

remote processing centers, as required by the language of claim 1. Furthermore there is no plurality of

order queues provided at the server of Wallace. Nor are there queues associated with each of the

plurality of healthcare facilities..."

In response, Examiner respectfully disagrees and directs Applicant's attention to the applied teachings of

Wallace col. 11, lines 41-67, col. 12, lines 1-13 in further consideration of the supportive

teachings of Wallace at col. 14, lines 48-67 and col. 15, lines 1-25. In the noted teachings,

Wallace discloses a host pharmacy controller that includes a server (Wallace; col. 12, lines 13-

22, col. 14, lines 48-67 and col. 15, lines 1-25). Wallace further discloses multiple remote

dispensing units with associated workstations dispersed over a wide geographic area (i.e.,

multiple remote processing centers) each having a dispense queue (Wallace; col. 12, lines 14-29

and col. 14, lines 51-64). Examiner considers the host system/server to constitute an "order

server" and the remote dispensing system/workstations to be "remote processing centers" as

presented in the claimed invention. Accordingly, Examiner respectfully disagrees with

Applicant's contention that existence of a single host pharmacy system indicates the non-

existence of multiple "remote processing centers". In contrast, Wallace clearly indicates a host

system/server (*see pharmacy controller system/server) and multiple remote dispensers which

"process" orders specifically designated for the remote station (*see workstation/RCD's). As the

host system services multiple remote dispensers, there exists a plurality of queues.

Applicant additionally provides the following in support of the assertion that Wallace fails to teach the order queuing features of the claimed invention:

"...The workstation appears to have a queue database that is accessible for a read only data workstation...This queue, kept at the workstation appears to be available to the pharmacy controller..."

"...The server is said to contain and maintain all the information necessary to dispense a drug and effectively function as a mainframe...The server passes to the client browser the necessary codes to cause the RCD to dispense the drug requested..."

"...Once the services are completed and the pharmacy controller places into a dispense queue the Rx information for the sending workstation, the sending workstation, in turn sees it as an item in its queue and dispenses that item..."

From the above comments, Applicant draws the following conclusion:

"...This description in Wallace makes clear that Wallace does not show suggest, much less reasonably make obvious, having a plurality of order queues at the order server, with each of the order queues being associated with one or the plurality of healthcare facilities. Each workstation das a local queue but the server is not disclosed as having any queue in the cited sections of Wallace, and certainly not separate queues for separate healthcare facility..."

In response, Examiner respectfully disagrees and directs Applicant's attention to the applied

teachings of Wallace col. 11, lines 41-67, col. 12, lines 1-13 in further consideration of the

supportive teachings of Wallace at col. 14, lines 48-67 and col. 15, lines 1-25. In the noted

passages, Wallace discusses the processes for receiving prescription orders at the pharmacy

controller/server, accessing the order by the pharmacy controller from a queue database, and

subsequent assignment of the order to a queue specific to one of multiple remote processing units

for dispensing (i.e., processing said orders"). Specifically, Wallace indicates that patient

prescription information including "account number, Rx #, Rx date, patient name, prescriber

name" is received from a sending workstation and placed into a queue database. The pharmacy

controller accesses the information in the queue database (Wallace; col. 11, lines 65-67 and col.

12, lines 1-13, i.e., order received). The pharmacy controller reviews the Rx information in the

initial queue, performs adjudication and utilization reviews, and subsequently places the order in

a dispense queue designated for the sending workstation and associated remote dispensing unit

(Wallace; col. 12, lines 14-29, col. 14, lines 47-67, and col. 15, lines 1-20). Accordingly, queues

are "established" for inbound orders (*see Rx information entered at workstation and accessed in

the queue database by pharmacy controller) and further assigned to a facility specific queue for

dispensing (*see controller assignment of order to RCD specific dispense queue). While Wallace

fails to specifically recite "establishing at an order server a plurality of order queues for a

plurality of facilities", the inbound orders are clearly placed in a queue database that is accessed

by the pharmacy controller. The pharmacy controller is clearly associated with an operating

server. The orders are clearly placed, by the controller system, in queues specifically designated

for dispensing at the designated RCD/workstation. Examiner respectfully submits that the noted

queues are "established at an order server" at least insofar as presently claimed by Applicant.

With respect to the recitation of facility specific queues, as correctly noted by Applicant, the

workstation/dispenser has read access to the queue that is specifically designated for processing

at the location. However, Examiner disagrees that this teaching indicates that the queue is

established or maintained only at the workstation and is not facility-specific as Applicant

contends. In contrast, both the order information and dispensing queues are "established" at the

pharmacy controller and the dispensing queue is simply accessed by the remote station for

dispensing, i.e., "processing". This is further evidenced by the specific read only queue access by

the RCD/workstation and the Read/Write access of the pharmacy controller, noted by Applicant.

Further, it is obvious that both queues are clearly facility specific as the orders are tracked in a

manner such that a received order is placed in an initial queue database, accessed by the

pharmacy system, and subsequently placed in a queue specifically designated for the sending

workstation and the associated dispensing unit. Clearly the host system is aware of the origin of

the order such that the correct dispensing unit can be identified for "processing" of the order.

This maintenance and tracking of facility specific queues is further evidenced by Wallace's

indication that the access to the specific queue is based on a user ID "to keep different dispensing

networks from sharing or intercepting data not pertinent unto itself" (Wallace; col. 12, lines 10-

15).

In light of the above, rejection of the unamended claims is maintained as presented in the

previous Office Action mailed 14 April 2009.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

[3]   Claims 1-4, 7-1, 14-16, and 18-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Wallace et al. (United States Patent #6,564,121).

As per claim 1, Wallace et al. disclose a method for remote processing of pharmacy orders:

establishing at an order server a plurality of order queues for a plurality of healthcare facilities,

each of said order queues associated with one of said plurality of healthcare facilities (Wallace et

al.; col. 11, lines 41-67, col. 12, lines 1-12 *see "ID" association with remote dispensing units.

*remote dispensing units are considered to be a form of "healthcare facility"); assigning each of

said plurality of order queues to one of a plurality of remote processing centers (Wallace et al.;

col. 12, lines 5-13 *see "queue database" including queuing at the host station and queuing at the

dispense station); receiving at said order server a plurality of orders from said plurality of

healthcare facilities (Wallace et al.; col. 12, lines 8-13 and col. 12, lines 30-41); adding each of

said plurality of orders to one of said plurality of order queues associated with one of said

plurality of healthcare facilities (Wallace et al.; col. 12, lines 5-13, FIGS. 3 and 4A); accessing

one of said plurality of order queues from said one of said plurality of remote processing centers

assigned to said order queue (Wallace et al.; col. 12, lines 8-23 and col. 12, lines 30-39); and

processing said orders in said accessed order queue (Wallace et al.; col. 12, lines 30-65).

With respect to the order queues, while Wallace et al. disclose the use queuing of orders at the

servers in the distribution centers, Wallace et al. fail to provide a specific teaching of queuing at

the server in which the orders are initially received.

While Wallace fails to specifically recite "establishing at an order server a plurality of order

queues for a plurality of facilities", the inbound orders are clearly placed in a queue database that

is accessed by the pharmacy controller. The pharmacy controller is clearly associated with an

operating server. The orders are clearly placed, by the controller system, in queues specifically

designated for dispensing at the designated RCD/workstation (Wallace; col. 11, lines 41-67, col.

12, lines 1-13, col. 14, lines 48-67, and col. 15, lines 1-25). The host system retrieving the order

information from the "queue database" is obviously aware of the origin of the order such that the

reviewed order is correctly assigned to the dispense queue associated with the correct dispensing

unit for "processing" of the order.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the

invention was made that facility specific queuing of inbound orders is utilized by Wallace in

order correctly assign the reviewed order to the RCD dispense queue associated with the sending

workstation. One or ordinary skill in the art would have been motivated to draw the noted

conclusion of obviousness with the motivation of employing well known tracking techniques

(evidenced by Wallace) for efficient and economical medication management at medium sized

facilities (Wallace et al.; col. 1, lines 10-25 and col. 1, lines 50-62).

As per claim 2, Wallace et al. disclose a method wherein processing said orders in said accessed

order queue comprises accessing a pharmacy information system for said healthcare facility

associated with said accessed order queue (Wallace et al.; col. 11, lines 62-67 and col. 12, lines

1-8).

As per claim 3, Wallace et al. disclose a method wherein accessing said pharmacy information

system comprises automatically connecting to said pharmacy information system when said

accessed order queue is accessed from said remote processing center assigned to said order

queue (Wallace et al.; col. 11, lines 40-62 and col. 13, lines 2-5).

As per (currently amended) claim 4, Wallace et al. disclose a method further comprising

dispensing a medication associated with an order in said accessed order queue from an

automated medication dispensing system interfaced to said pharmacy information system

(Wallace et al.; col. 13, lines 7-32).

NOTE: claim 4 has been amended to correct a typographical error. The amendment does not

alter the scope of the functions/steps denoted by the claim.

Regarding claims 2-4, the conclusion of obviousness and statements of motivation as discussed

with regard to claim 1 above are applicable to claims 2-4 and are herein incorporated by

reference.

As per claim 7, Wallace et al. disclose a method for remote processing of pharmacy orders:

establishing at an order server a first order queue for a first healthcare facility (Wallace et al.;

col. 11, lines 46-67 and col. 12, lines 1-22, FIGS. 3 and 4A); establishing at said order server a

second order queue for a second healthcare facility (Wallace et al.; col. 11, lines 46-67 and col.

12, lines 1-22, FIGS. 3 and 4A); receiving at said order server a plurality of orders from said first

healthcare facility (Wallace et al.; col. 12, lines 8-13 and col. 12, lines 30-41); receiving at said

order server a plurality of orders from said second healthcare facility (Wallace et al.; col. 12,

lines 8-13 and col. 12, lines 30-41); adding each of said plurality of orders from said first

healthcare facility to said first order queue (Wallace et al.; col. 12, lines 5-13, FIGS. 3 and 4A);

adding each of said plurality of orders from said second healthcare facility to said second order

queue (Wallace et al.; col. 12, lines 5-13, FIGS. 3 and 4A); accessing orders from said first order

queue and orders from said second order queue from a first remote processing center (Wallace et

al.; col. 12, lines 8-13 and col. 12, lines 30-39); and processing at said first remote processing

center said orders from said first order queue and orders from said second order queue (Wallace et al.; col. 12, lines 30-65).

With respect to the order queues, while Wallace et al. disclose the use queuing of orders at the servers in the distribution centers, Wallace et al. fail to provide a specific teaching of queuing at the server in which the orders are initially received.

While Wallace fails to specifically recite "establishing at an order server a plurality of order queues for a plurality of facilities", the inbound orders are clearly placed in a queue database that is accessed by the pharmacy controller. The pharmacy controller is clearly associated with an operating server. The orders are clearly placed, by the controller system, in queues specifically designated for dispensing at the designated RCD/workstation (Wallace; col. 11, lines 41-67, col. 12, lines 1-13, col. 14, lines 48-67, and col. 15, lines 1-25). The host system retrieving the order information from the "queue database" is obviously aware of the origin of the order such that the reviewed order is correctly assigned to the dispense queue associated with the correct dispensing unit for "processing" of the order.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made that facility specific queuing of inbound orders is utilized by Wallace in order correctly assign the reviewed order to the RCD dispense queue associated with the sending workstation. One or ordinary skill in the art would have been motivated to draw the noted conclusion of obviousness with the motivation of employing well known tracking techniques

(evidenced by Wallace) for efficient and economical medication management at medium sized facilities (Wallace et al.; col. 1, lines 10-25 and col. 1, lines 50-62).

As per claim 8, Wallace et al. disclose a method further comprising accessing orders from said first order queue and orders from said second order queue from a second remote processing center upon failure of said first remote processing center to process orders (Wallace et al.; col. 10, lines 26-39 *alternative RCD).

As per claim 9, Wallace et al. disclose a method wherein processing at said first remote processing center said orders from said first order queue comprises accessing a pharmacy information system for said first healthcare facility associated with said first order queue (Wallace et al.; col. 11, lines 62-67 and col. 12, lines 1-23).

As per claim 10, Wallace et al. disclose a method wherein accessing said pharmacy information system comprises automatically connecting to said pharmacy information system when said first order queue associated with said first healthcare facility is selected at said first remote processing center (Wallace et al.; col. 11, lines 40-62 and col. 13, lines 2-5).

As per claim 11, Wallace et al. disclose a method further comprising dispensing a medication associated with an order in said first order queue from an automated medication dispensing system interfaced to said pharmacy information system (Wallace et al.; col. 13, lines 7-32).

Regarding claims 8-11, the conclusion of obviousness and statements of motivation as discussed

with regard to claim 7 above are applicable to claims 8-11 and are herein incorporated by

reference.

As per claim 14, Wallace et al. disclose a system for remote processing of pharmacy orders

comprising: a plurality of order queues, each of said order queues associated with a healthcare

facility (Wallace et al.; col. 11, lines 46-67 and col. 12, lines 1-22, FIGS. 3 and 4A); an order

server for receiving orders from said healthcare facilities and adding them to said order queues

according to said associated healthcare facility and for responding to requests for accessing and

processing orders in said plurality of order queues (Wallace et al.; col. 12, lines 5-23); and at

least one computer at least one remote processing center for accessing and processing orders in

said plurality of order queues (Wallace et al.; col. 11, lines 44-67 and col. 12 *see workstations

i.e., "computer" and remote control dispenser (RCD).

With respect to the order queues, while Wallace et al. disclose the use queuing of orders at the

servers in the distribution centers, Wallace et al. fail to provide a specific teaching of queuing at

the server in which the orders are initially received.

While Wallace fails to specifically recite "establishing at an order server a plurality of order

queues for a plurality of facilities", the inbound orders are clearly placed in a queue database that

is accessed by the pharmacy controller. The pharmacy controller is clearly associated with an

operating server. The orders are clearly placed, by the controller system, in queues specifically

designated for dispensing at the designated RCD/workstation (Wallace; col. 11, lines 41-67, col.

12, lines 1-13, col. 14, lines 48-67, and col. 15, lines 1-25). The host system retrieving the order

information from the "queue database" is obviously aware of the origin of the order such that the

reviewed order is correctly assigned to the dispense queue associated with the correct dispensing

unit for "processing" of the order.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the

invention was made that facility specific queuing of inbound orders is utilized by Wallace in

order correctly assign the reviewed order to the RCD dispense queue associated with the sending

workstation. One or ordinary skill in the art would have been motivated to draw the noted

conclusion of obviousness with the motivation of employing well known tracking techniques

(evidenced by Wallace) for efficient and economical medication management at medium sized

facilities (Wallace et al.; col. 1, lines 10-25 and col. 1, lines 50-62).

As per claim 15, Wallace et al. disclose a system wherein said computer at said remote

processing center is adapted to display a master healthcare facility queue view comprising the

total number of orders in the healthcare facility queue and the time of the oldest order in the

healthcare facility queue (Wallace et al.; col. 21, lines 18-29, Fig. 20B NOTE: Wallace et al.

system records "date" of transaction, (i.e., "oldest").

As per claim 16, Wallace et al. disclose a system wherein said computer at said remote

processing center is adapted to display a healthcare facility detail queue view comprising an

expanded view of said healthcare facility queue and status information related to processing of

an order in said healthcare facility queue (Wallace et al.; col. 21, lines 23-29 *RPh can view all

dispensing queues)

As per claim 18, Wallace et al. disclose a system wherein said computer at said remote

processing center is adapted to display an order view comprising an electronic image of an order

from a selected healthcare facility queue (Wallace et al.; col. 18, lines 19-30).

As per claim 19, Wallace et al. disclose a system further comprising a clinical intervention

automated tracking application for documenting and reporting order consultations (Wallace et

al.; col. 21, lines 30-62 *see DUR, adjudication etc.).

As per claim 20, Wallace et al. disclose a system further comprising a second remote processing

center for accessing and processing orders in said plurality of order queues when said at least one

remote processing center fails to process orders (Wallace et al.; col. 10, lines 26-39 *alternative

RCD).

Regarding claims 15-16, and 18-20, the conclusion of obviousness and statements of motivation

as discussed with regard to claim 14 above are applicable to claims 15-16, and 18-20 and are

herein incorporated by reference.

As per (newly added) claims 21-23, Wallace et al. disclose a method and system further

comprising maintaining a separate order queue for each healthcare facility at said order server

(Wallace et al.; col. 11, lines 41-67, col. 12, lines 1-13, col. 14, lines 48-67, and col. 15, lines 1-

25 *see analysis claims 1, 7, and 14 and Response to Remarks).

Regarding claims 21-23, the conclusion of obviousness and statements of motivation as

discussed with regard to claims 1, 7, and 14 above are applicable to claims 21-23 and are herein

incorporated by reference.

[4]   Claims 5-6, 12-13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Wallace et al. in view of Gingrich et al. (United States Patent Application Publication

#2004/0006490).

Claims 5-6, 12-13, and 17 are directed to processing prescription orders associated with specific

healthcare facilities in accordance with "service level commitments specified by the healthcare

facility" (Claims 5, 12, and 17) and "accordingly to policies established by the healthcare facility

(Claims 6 and 13). As per these elements, While Wallace et al. disclose procedural items such a

Drug Utilization Reviews (DURs) and adjudication of orders (Wallace et al.; col. 21, lines 30-62), Wallace et al. fails to disclose that the procedures are queue/facility specific and/or based on contractual rules or agreements involving the specific facility.

However, as evidenced by Gingrich et al., it is well known in the prescription fulfillment and pharmacy benefits management art to provide for procedural checks as dictated by contractual obligations or guidelines (Gingrich et al.; paragraphs [0055]-[0058] [0093] *see contract validation module).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the teachings of Wallace et al. with those of Gingrich et al. with the motivation of determining, during adjudication and validation of a pharmacy order (Wallace et al.; col. 21, lines 30-62) to determine whether the requestor is a valid subscriber to the service (Gingrich et al.; paragraph [0055]).

Conclusion

[5]   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to R. David Rines whose telephone number is (571)272-5585. The

examiner can normally be reached on 8:30am - 5:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. David Rines/
Examiner, Art Unit 3623